

ENTERED

May 06, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	Chapter 11
	§	
MCDERMOTT INTERNATIONAL, INC., <i>et al.</i> , ¹	§	Case No. 20-30336 (DRJ)
	§	
Reorganized Debtors.	§	(Jointly Administered)
	§	
MICHAEL VAN DEELEN	§	
	§	
Plaintiff,	§	Adv. Proc. No. 20-03309 (DRJ)
	§	
v.	§	Appeal No. 4:21-cv-3369 (ASH)
	§	
DAVID DICKSON,	§	
and STUART SPENCE,	§	
and SCOTT LAMB, and	§	
JOSHUA SUSSBERG,	§	
and 10 JOHN/JANE DOES	§	
	§	
Defendants.	§	

**ORDER GRANTING MOTION FOR
LEAVE TO SUPPLEMENT THE RECORD ON APPEAL AND DENYING SANCTIONS**

CAME ON FOR CONSIDERATION, the Joint Motion for Leave to Supplement the Record on Appeal (“Motion”) (at Doc. No. 19). The Court, having reviewed same, and having reviewed the response in opposition (Doc. No. 21) and is of the opinion that the Motion should be GRANTED; it is therefore

¹ A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://cases.primeclerk.com/McDermott>. The location of Debtor McDermott International, Inc.’s principal place of business and the Debtors’ service address in these chapter 11 cases is 757 North Eldridge Parkway, Houston, Texas 77079.

ORDERED ADJUDGED and DECREED that the Motion is hereby GRANTED, and that the record on appeal should be supplemented to include the below-referenced additional docket entries:

1. Debtors' *Chapter 11 Voluntary Petition for Non-Individuals Filing for Bankruptcy* (Bankr. Dkt. No. 1, Case No. 20-30336), filed on January 21, 2020.
2. Debtors' Chapter 11 Plan of Reorganization Filed by McDermott International, Inc. (Bankr. Dkt. No. 5, Case No. 20-30336), filed on January 22, 2020.
3. Plaintiff's *Objection to Confirmation of Plan* (Bankr. Dkt. No. 510, Case No. 20-30336), filed on February 27, 2020.
4. Debtors' *Notice of Filing of Plan Supplement* (Bankr. Dkt. No. 520, Case No. 20-30336), filed on February 29, 2020.
5. Debtors' *Notice of Filing of Amended Plan Supplement* (Bankr. Dkt. No. 622, Case No. 20-30336), filed on March 11, 2020.
6. Debtors' *Notice of Filing of Second Amended Plan Supplement* (Bankr. Dkt. No. 647, Case No. 20-30336), and the *Amended Chapter 11 Plan* (Bankr. Dkt. No. 651, Case No. 20-30336), both filed on March 12, 2020.
7. The Transcript for the Hearing held on 3/9/2020 before Judge David R. Jones (Bankr. Dkt. No. 664, Case No. 20-30336), filed on March 12, 2020.
8. The Court's *Order Approving the Debtors' Disclosure Statement and Confirming the Second Amended Joint Prepackaged Chapter 11 Plan of Reorganization of McDermott International, Inc. and Its Debtor Affiliates* (Bankr. Dkt. No. 665, Case No. 20-30336), filed on March 12, 2020.

9. The Court's *Amended Order Approving the Debtors' Disclosure Statement and Confirming the Second Amended Joint Prepackaged Chapter 11 Plan of Reorganization of McDermott International, Inc. and Its Debtor Affiliates* (Bankr. Dkt. No. 684, Case No. 20-30336), filed on March 14, 2020.
10. The Transcript for the Hearing held on 3/12/2020 before Judge David E. Jones (Bankr. Dkt. No. 690, Case No. 20-30336), filed on March 16, 2020.
11. Debtors' *Emergency Motion for Michael Van Deelen to Appear and Show Cause Why He Should Not be Held in Contempt of Court and Prohibited from Further Contact with the Debtors, Their Officers, or Their Counsel* (Bankr. Dkt. No. 694 (lead document), Case No. 20-30336), filed on March 17, 2020.
12. The *Clerk's Entry of Default Against Stuart Spence* (Adv. Dkt. No. 17, Case No. 20-03309) and the *Clerk's Entry for Default Against Scott Lamb* (Adv. Dkt. No. 19, Case No. 20-03309), both filed on September 24, 2020.
13. Mr. Van Deelen's *Motion for Default Judgment* (Adv. Dkt. No. 21, Case No. 20-03309) and *Corrected Motion for Default Judgment* (Adv. Dkt. No. 22, Case No. 20-03309), both filed on September 25, 2020.
14. *Defendants' Response to Plaintiff's Motion for Default Judgment and Requests for Entry of Default* (Adv. Dkt. No. 23, Case No. 20-03309), filed on October 7, 2020.
15. Mr. Van Deelen's *Reply to Defendants' Response* (Adv. Dkt. No. 26, Case No. 20-03309), filed on October 8, 2020.
16. Courtroom Minutes: *Time Hearing Held: 9:00 AM – 9:39 AM. Hearing heard before Bankruptcy Judge Marvin Isgur. Telephonic Appearances: Plaintiff Michael Van Deelen present, sworn in and testimony given. Anna Rotman for the Defendants. The motion to recuse is denied on the record, order to be entered by the Court as stated on the record. (Related documents: Motion to Recuse Judge, Motion to Stay, Certificate of Notice)* (Adv. Dkt. No. 41, Case No. 20-03309), entered on March 10, 2021.

17. Courtroom Minutes: *Time Hearing Held: 9:50 AM. Appearances: Jamie Aycock, Michael Van Deelen. (Related documents: Notice of Removal) Plaintiff to amend his complaint by 4/12/2021, Response due by 5/3/2021, Reply due by 5/24/2021. Hearing scheduled for 6/7/2021 at 9:00 AM by telephone and video conference. Note: All pending matters are continued to 6/7/2021 at 9:00 AM (Adv. Dkt. No. 43, Case No. 20-03309), entered on March 10, 2021.*
18. Courtroom Minutes: *Time Hearing Held: 11:00 AM. Appearances: Jamie Aycock; Michael Van Deelen; Matthew Cavanaugh. (Related documents: (1) Notice of Removal, Certificate of Notice) Today's hearing is continued to 8/9/2021 at 11:00 AM by telephone and video conference. Mr. Van Deelen to file an amended complaint by 6/21/2021; Mr. Aycock to file an amended pleading by 7/12/2021; response due by 7/26/2021 (Adv. Dkt. No. 55, Case No. 20-03309), entered on June 7, 2021.*

The Appellant has requested that this Court sanction the Defendants for their faulty Certificate of Service. It is clear that, even if the certificate was not accurate, Van Deelen received notice of the pending motion. Therefore, there is no need for sanctions at this juncture. Nevertheless, counsel for Appellees are cautioned that proper service of any pleading and a proper certificate describing that service is necessary and failure to comply in the future may result in the Court striking the offending pleading.

SIGNED this 6th day of May, 2022



ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE